

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes
Bill Leonard, Member
State Board of Equalization*

April 3, 2006

QUOTE OF THE WEEK

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” --- The Bill of Rights, Fourth Amendment to the U.S. Constitution

ON THE TRAIL

*****Ballot Designations*****

The Secretary of State has published 133 pages of names, addresses and ballot designations of the candidates for their party's nominations for constitutional officers, members of Congress, members of the legislature, and the non-partisan Superintendent of Public Instruction. I think the law is outdated in this day and age. No one is permitted to describe themselves as a “former” or “retired” anything. They can use the word "retired," but cannot hint to the voter what they retired from.

For example, my friend Senator Dick Mountjoy retired from the state Senate a few years back. He served 24 years in the legislature and was active in many political causes. Those who know him call him ‘Senator’ almost as if it was his first name. Tradition has always been that unlike ‘Assemblymember’, ‘Senator’ is a title one keeps for life. Yet Mountjoy’s candidacy papers for the United States Senate are under review because he wishes to identify himself as “Senator/Businessman.” There is no attempt to mislead. After so many years in the Senate this is really who he is.

How is the public informed when all they know about a candidate is that he is retired? Would it not be better to know that a candidate is a retired legislator, retired police officer, retired Realtor, retired Marine Colonel, or retired school superintendent? (All of which I found among the list of current candidates.) Check out the list at:

http://www.ss.ca.gov/elections/election_2006/status/unofficial_list_of_candidates_32806.pdf

AROUND THE STATE

*****Follow-Up on Public Records Act Failure*****

The Executive Director of the BoE briefed the Board and the public at our April 29 public hearing on the recent failure on the part of the Board to correctly comply with a simple public records act request from a watchdog group. Our ED reported that a number of steps have been taken, including better training for staff. However, I will not rest until the disclosable public documents under the statute are available from our public website at any time for whoever wishes to examine them.

If you have had bad experiences with obtaining public records from this department or any other, please send me an email: Bill.Leonard@boe.ca.gov

*****Educrats Need Paddling*****

From the Bill Leonard Blog, March 30 2006

I went to high school and college in the 1960's during tumultuous times of students protests. When students abandoned classrooms for the streets they confronted "the man." Educators told students to get back to class or face punishment. This sometimes escalated to sit-ins and other protests, forcing educators to manage situations where they were ill equipped. Ronald Reagan made his early reputation as the new Governor in telling students how lucky they were to have state subsidized education and in telling administrators to find their back bone.

Fast forward to today. School officials are assisting, encouraging, and promoting student protests on immigration policy. What once was a protest against the system is now a school sponsored field trip. Have these officials lost their minds? Now that they have told all students that truancy has no consequences, how do you get them back in school? Mayor Villaraigosa, after congratulating them for abandoning their classes, then told the students to go back to school and was booed for his comments.

Maybe we should use student protests as an incentive. Hey kids, you can leave school today to protest but only if you have already passed the High School Exit Exam.

*****A Worthy Idea*****

Russell J. Hammer, the President & CEO of the Los Angeles Area Chamber of Commerce, wrote in the Chamber's newsletter about an idea that should receive wide and serious discussion in Sacramento. Hammer began by saying that the collapse of the infrastructure bond deal destroyed "any shred of confidence that Sacramento can accomplish anything important within a reasonable time frame." He acknowledges that infrastructure is desperately needed and that perhaps we should establish a committee of experts to craft a bond, and he suggests modeling it on the Base Realignment and Closure Commission established by Congress in 1995 when no elected official had the political will to decide on which bases should be closed. There would be no pork added to the plan and only an up or down vote, no logrolling any base off the list. I share Mr. Hammer's view that we should empower a public works board to create a list of infrastructure projects and brainstorm ways to finance them. There should be no two-thirds vote

required; instead, a majority of legislators would have to vote to kill the proposal in its entirety, otherwise it goes to the voters.

TAXING TIMES

*****“Hung Up on Documentation”*****

Every once in a while a situation arises that serves as a good example to other taxpayers. California is very blessed to be the only state that has an elected tax board. Our tax appeal hearings are much less formal than judicial courts, but this does not mean that taxpayers do not have to provide evidence when they appeal their tax determination.

A business contacted me saying they would soon bring their case before the BoE. They are seeking a large Use Tax refund but did not provide much if any documentation. This company gives away property their customers use. The property is sent from outside California to the customers in California. The legal issue is where the gift was completed. The factual issue is when the company relinquished control of the property. If control was relinquished outside California, the gift was made outside California and no tax is due. If control was maintained until the property was delivered, the gift was made in California and tax is due. In this instance, the shipping records are almost the entire case. The company must provide the relevant bills of lading or similar records. A member of my staff spent a long time talking to these folks, making the point repeatedly that they need to present the documents or they will lose their case – pretty simple. After some time, an attorney for this company said, “I’m getting the impression you are hung up on documentation.”

Yes, I am. In the vast majority of cases, a taxpayer must maintain records that tell a clear story at least four years after the fact in order to prevail before the BoE. If the company fails to produce the relevant records, they will almost certainly lose their case. This is a lesson to us all.

ISSUE FOCUS

***** “Stupid in America” *****

For a terrific summary of what is wrong with America’s public education system, see John Stossel’s column, “Stupid in America: How Lack of Choice Cheats Kids Out of a Good Education” at this link:

<http://abcnews.go.com/2020/print?id=1500338>

One of the most intriguing parts of Stossel’s article is a profile of a charter school in Oakland, California, run by principal Ben Chavis. Chavis formerly worked as a public school principal but now he runs an alternative school that spends thousands of dollars less per student than neighboring public schools. Despite that, his middle school students have the highest test score in the city. He says, “It’s not about the money,” and he saves it by having students keep the campus neat, set up their own cafeteria for lunch and just go for a run for physical education. The article also compares our public school system with those in Europe, explores the difficulty

of firing bad teachers, and discusses the lengths to which parents will go to enroll their children in better schools than the ones they are assigned to geographically.

MISCELLANY

*****California County History*****

The fourth profiled county in my BOE district is Calaveras County. If it sounds familiar to you, you probably know it from “The Celebrated Jumping Frog of Calaveras County” by Mark Twain. Each year the county hosts a Fair and Jumping Frog Jubilee. Created in 1850, Calaveras County is located in the state’s Gold Country and its seat is San Andreas. In the 2000 Census, Calaveras has 40,544 residents. The word “calaveras” means “skulls.” The Calaveras River was named by an explorer who found many Indian skulls on the river’s banks. The Indians either died in the famine or had been killed in tribal conflicts. For more information about the Fair and Jumping Frog Jubilee, go to:

<http://www.frogtown.org/jubilee.shtml>

*****A Good Read*****

For anyone curious or concerned about the state of public schools in America, I recommend “Schooling America: How the Public Schools Meet the Nation’s Changing Needs” by Patricia Albjerg Graham. The book is not quite the defense of public education one expects from the title, but it is a quality look at the history of American public schools. Using her own family’s immigrant history, Graham explains how public school adapted to meet the needs of the huge immigrant population in the early 1900s. The goal of public schools was to assimilate the children of immigrants into American society. By the middle of the century, schools were changing again to address critics who demanded attention for desegregated classes, programs for the gifted, the disabled and the poor. Finally, she discusses the current demand for accountability by way of high test scores. On the subject of research into successful educational methods, she writes: “[W]e treat schools as doughnuts. We are very good at explaining the periphery (the demographics of students, the teachers, the funding) but we do not understand the hole in the center (what makes the child learn). I do not agree with all of her points, but her historical perspective of schools changing because of social demands is instructive, and her concluding discussion about the importance of schools in a democracy is not something we hear often enough these days. She writes, “What the country needs now is the enhancement of both the wit and the character of the young, and such efforts should be at the heart of our educational institutional efforts. Wit is a more inclusive term for knowledge than academic achievement. Character includes the secular traits of integrity, ingenuity, and hard work, both individually and collectively, that our democracy needs.” She cites these personal attributes as the causes of American triumphs and wonders, appropriately so, from whence will come the force that will help bring such wit and character to our modern schools.

BOE AND LEGISLATIVE DATES

April 6, 2006 --- Legislature begins spring recess upon adjournment.

April 14, 2006 --- Good Friday.

April 15, 2006 --- Personal income tax deadline.

April 16, 2006 --- Easter Sunday.

April 17, 2006 --- Legislature reconvenes from spring recess.

April 18, 2006 --- BOE meets in Sacramento.

April 28, 2006 --- First day to file petitions in-lieu of the filing fee for independent candidates for the general election.

May 8, 2006 --- Absentee ballots begin to drop for the June 2006 primary election.

May 14, 2006 --- Mothers' Day.

May 17, 2006 --- BOE meets in Sacramento.

NOTABLE DATES/ HISTORY

April 3, 1860 --- Pony Express began service between St Joseph, MO and Sacramento, CA.

April 3, 1944 --- U.S. Supreme Court struck down the Texas Democratic Party's "whites only" primary election system.

April 4, 1818 --- Congress approved the U.S. flag with 13 red and white stripes and 20 stars with a new star to be added for each new state.

April 4, 1870 --- Golden Gate Park was established by San Francisco City Order #800.

April 4, 1968 --- American civil rights leader Martin Luther King, Jr., was assassinated in Memphis, TN by James Earl Ray.

April 5, 1614 --- Pocahontas, daughter of Native American chief Powahatan, married American colonist John Rolfe in Jamestown, Virginia. Their marriage contributed to peace between the Native Americans and English.

April 5, 1768 --- The first U.S. Chamber of Commerce formed (New York NY).

April 5, 1896 --- The first modern Olympic Games officially opened in Athens.

April 5, 1941 --- In San Francisco, the Castro and Fillmore streetcars were replaced by buses.

April 5, 1951 --- U.S. citizens Julius and Ethel Rosenberg were sentenced to death for spying for the Soviet Union.

April 5, 1984 --- Los Angeles Laker Kareem Abdul-Jabbar became the all-time highest scorer in the NBA when he scored a record-breaking basket using his signature "sky hook."

April 6, 1722 --- Peter the Great ended tax on men with beards.

April 6, 1917 --- The U.S. declared war on Germany and entered World War I.

April 7, 1919 --- The Original Dixieland Jazz Band, the first jazz band to record its music, made its debut in London, England. The group's signature song was "Tiger Rag."

April 7, 1980 --- U.S. President Jimmy Carter broke off diplomatic relations with Iran during the hostage crisis.

April 8, 1865 --- The 13th Amendment, banning slavery, passed by U.S. Senate with 100% Republican support, 63% Democrat opposition.

April 8, 1986 --- Clint Eastwood was elected mayor of Carmel, CA.

April 9, 1865 --- In the U.S. Civil War, Confederate General Robert E. Lee surrendered his troops to Union General Ulysses S. Grant at Appomattox, Virginia.

April 9, 1866 --- A Republican Congress overrode Democrat President Johnson's veto so that the Civil Rights Act of 1866, conferring rights of citizenship on African-Americans, became law.

April 9, 1968 --- Rev. Martin Luther King Jr. was buried in Atlanta, GA.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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